

Department of Taxation

Regulation Title: NEWSPAPERS, MAGAZINES, PERIODICALS AND OTHER PUBLICATIONS

VAC Number: 23 VAC 10-210-1060

- 1. Statement identifying and describing the source of the state and/or federal legal authority to promulgate the contemplated regulation, the scope of the authority provided, and the extent to which the authorized rulemaking is mandatory or discretionary, together with an attached copy of all cited legal provisions;**

Section 58.1-203 of the Code of Virginia authorizes the Commissioner of the Department of Taxation to promulgate regulations related to the interpretation and enforcement of the laws of the Commonwealth governing taxes administered by the department.

- 2. Statement delineating the potential issues to be addressed in the proposed regulation;**

The purpose of the amendments is to clarify the application of the retail sales and use tax to newspapers, magazines, and other publications by adding language defining a publication, specifying that back issues of periodicals are exempt from taxation, and delineating those publications that remain subject to the sales and use tax.

- 3. Statement setting forth the reasoning by which the agency has concluded that the contemplated regulation is essential to protect the health, safety or welfare of citizens or for the efficient and economical performance of an important governmental function, including a discussion of the problems the regulations are intended to solve;**

The proposed amendments to the regulation will ensure that the department's regulation is consistent with the Code of Virginia and recent case law. Given the rule of construction that exemptions are to be construed against the taxpayer, it is important that the regulations are accurate in the event of future litigation.

- 4. Statement describing the process by which the agency has considered, or will consider, less burdensome and less intrusive alternatives for achieving the essential purpose, the alternatives considered or to be considered, and the reasoning by which the agency has rejected any of the alternatives considered.**

Alternatives to a regulation, such as a Tax Bulletin, and other means of guidance will be used by the department to disseminate the change in policy as a result of recent court decisions; however, the department has determined that a regulation, consistent with the

court's decisions is critical to serve as a vehicle upon which the department can rely in court should this matter be litigated.